



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

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(P.O. BOX 1799, SACRAMENTO, CALIFORNIA 95808)  
(916) 445-6479

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DOUGLAS D. BELL  
Executive Secretary

No. 84/05

January 10, 1984

COUNTY ASSESSORS, COUNTY COUNSELS,  
AND OTHER INTERESTED PARTIES:

**RULE 309, HEARING  
WEDNESDAY, FEBRUARY 29, 1984**

The State Board of Equalization will hold a public hearing on proposed amendments to Property Tax Rule 309, Hearing, on Wednesday, February 29, 1984, at 2:00 p.m., in room 102, at 1020 N Street, Sacramento, California.

Existing rule 309 contains no time limitation for actions by local boards of equalization or to the effect of failure to meet time limitations. This rule is amended to incorporate the changes to Section 1604 of the Revenue and Taxation Code which was included in AB 1603, Chapter 7, of the Statutes of 1982, as revised by AB 3382, Chapter 1465, of the Statutes of 1982. AB 1603 added subdivision (c) to Section 1604 to provide that if the local board of equalization does not hear a property tax assessment appeal within two years of timely filing, the taxpayer's opinion of market value shall be accepted, but only if the taxpayer has filed full and complete information as required by law and only if no litigation is pending directly relating to the issues involved in the application. AB 3382 added the additional condition that the two-year-hearing requirement only be applied to applications filed on or after January 1, 1983.

This rule also makes specific the proposition that a hearing must not only be held but also a final determination must be made within two years of a timely filing. The statute indicated that a hearing must be held within two years but did not specify that the final determination must be made within such limits. The bare requirement that a hearing be held is meaningless within the context of the intent of the legislation unless there is the associated specific requirement that the issues to be resolved shall be decided before a reasonable period of time expires.

The rule also clarifies the meaning of "full and complete information" by: (a) specifying that the phrase refers to either a full and complete property statement, or to an exchange of information required under Rule 305.1; and, (b) limiting its application to the property which is the subject of the assessment appeal.

The rule also clarifies what litigation will suspend the requirements of the amended Section 1604 to include only litigation pending in a court which has

January 10, 1984

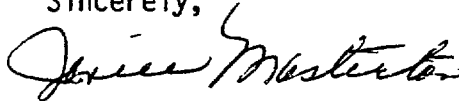
jurisdiction in the county in question. The rule thus clarifies legislative intent to not suspend the provisions of the statute unless the results of pending legislation is binding upon the parties of the hearing.

The rule also establishes a requirement that the taxpayer be notified in writing of the pendency of litigation in order that a petitioner shall be well informed as to the basis of suspending the summary provisions of Section 1604.

The rule also establishes a deadline for final determination after the court decision is final. The rule makes specific the statutory intent that the hearing must be held and a final determination made within a limited time period. The rule provides that if a hearing is postponed because of controlling litigation then the hearing must be held and a final determination made within a period of two years after the application is filed, not counting the time between the notice of pending litigation and the date that the litigation becomes final.

Written comments for the Board's consideration or requests to present testimony at the public hearing should be directed to me (916) 445-6479, at the above address. Questions regarding the rule should be directed to Robert Keeling, Staff Counsel (916) 323-7713.

Sincerely,



Janice Masterton  
Assistant to Executive Secretary

JM:ms

Enclosure  
ADM-06A-2092A/0168/

NOTICE OF PROPOSED REGULATORY ACTION  
BY THE  
STATE BOARD OF EQUALIZATION

Rule 309, Hearing

Public Hearing: February 29, 1984

NOTICE IS HEREBY GIVEN that the State Board of Equalization proposes to amend Rule 309, in Title 18 of the California Administrative Code, relating to property tax. This amendment is proposed pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 1604 and 1606 of the Revenue and Taxation Code.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on February 29, 1984. Any person interested may present statements or arguments orally at that time and place.

INFORMATIVE DIGEST: Existing rule 309 contains no time limitation for actions by local boards of equalization or to the effect of failure to meet time limitations. This rule is amended to incorporate the changes to Section 1604 of the Revenue and Taxation Code which was included in AB 1603, Ch. 7, of the Statutes of 1982, as revised by AB 3382, Ch. 1465, of the Statutes of 1982. AB 1603 added subdivision (c) to Section 1604 to provide that if the local board of equalization does not hear a property tax assessment appeal within two years of timely filing, the taxpayer's opinion of market value shall be accepted, but only if the taxpayer has filed full and complete information as required by law and only if no litigation is pending directly relating to the issues involved in the application. AB 3382 added the additional condition that the two year hearing requirement only applied to applications filed on or after January 1, 1983.

This rule also makes specific the proposition that a hearing must not only be held but also a final determination must be made within two years of a timely filing. The statute indicated that a hearing must be held within two years but did not specify that the final determination must be made within such limits. The bare requirement that a hearing be held is meaningless within the context of the intent of the legislation unless there is the associated specific requirement that the issues to be resolved shall be decided before a reasonable period of time expires.

The rule also clarifies the meaning of "full and complete information" by: (a) specifying that the phrase refers to either a full and complete property statement, or to an exchange of information required under Rule 305.1; and, (b) limiting its application to the property which is the subject of the assessment appeal.

The rule also clarifies what litigation will suspend the requirements of the amended Section 1604 to include only litigation pending in a court which has jurisdiction in the county in question. The rule thus clarifies legislative intent to not suspend the provisions of the statute unless the results of pending legislation is binding upon the parties of the hearing.

The rule also establishes a requirement that the taxpayer be notified in writing of the pendency of litigation in order that a petitioner shall be well informed as to the basis of suspending the summary provisions of Section 1604.

The rule also establishes a deadline for final determination after the court decision is final. The rule makes specific the statutory intent that the

hearing must be held and a final determination made within a limited time period. The rule provides that if a hearing is postponed because of controlling litigation then the hearing must be held and a final determination made within a period of two years after the application is filed, not counting the time between the notice of pending litigation and the date that the litigation becomes final.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts. Further, the Board has determined that the change will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

There is no cost impact on private persons or businesses. This proposal will have no adverse economic impact on small businesses.

INQUIRIES: Inquiries concerning this matter may be directed to Janice Masterton, at (916) 445-6479, 1020 N Street, Sacramento, California 95814.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by February 29, 1984.

STATEMENT OF REASONS; EXPRESS TERMS; RULEMAKING FILE: The Board has prepared a statement of reasons and a strike-out and underscore version (express terms) of the proposed changes. Both of these documents are available to the public upon request. The rulemaking file is available for public inspection at this address.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rulemaking file after the close of the public hearing, these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions sufficiently related to the published version of the regulation, these revisions will be available to the public from Mrs. Masterton for a period of 15 days before adoption.

Following the hearing, the State Board of Equalization, upon its own motion or at the instance of any interested person, may in accordance with law adopt the changes proposed without further notice.

Dated: December 29, 1983

STATE BOARD OF EQUALIZATION

*Douglas D. Bell*  
Douglas D. Bell *by JJD*  
Executive Secretary



## Rule 309. HEARING

(a) In counties having a population in excess of 4,000,000, on the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. In all other counties the board shall meet on the third Monday in July and shall continue to meet until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this article. Nothing herein requires the board to conduct hearings prior to the final day for filing applications.

(b) For applications filed on or after January 1, 1983, the hearing must be held and a final determination made within two years of the timely filing of an application for reduction in assessments submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the taxpayer and the county assessment appeals board mutually agree in writing to an extension of time.

(c) If the hearing is not held and a determination is not made within the time specified in part (b) of this section, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:

(1) The applicant has not filed a timely and complete application; or,

- (2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,
- (3) The applicant has not complied fully with a request for the exchange of information under section 305.1 of this subchapter; or,
- (4) Controlling litigation is pending. "Controlling litigation" is litigation which is: (a) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and, (b) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing.

(d) The applicant shall not be denied a timely hearing and determination pursuant to part (b) of this section, by reason of any of the exceptions enumerated in parts (c)(1), (c)(2), (c)(3), or (c)(4) herein, unless, within two years of the date of the application, the Board gives the applicant written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his right to protest the denial at the time of the hearing on his application.

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When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, not counting the period of time between the notice of pending litigation and the date that litigation becomes final.

Reference: Sections 1604, 1606, Revenue and Taxation Code,  
Section 15606, Government Code.

Authority: Section 15606, Government Code.